

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GIULIANA POTENZIANI,

Plaintiff,

-against-

**ANSWER**

07 Civ. 7286 (SCR) WP

METRO-NORTH COMMUTER RAILROAD,

Defendant.

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Defendant, Metro-North Commuter Railroad Company (“Metro-North”), by its attorney, Richard K. Bernard, Esq., General Counsel, as and for its answer to the complaint of the plaintiff, alleges as follows:

**FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) 1 and 3 of the complaint.

**SECOND:** Denies upon information and belief the truth of the allegations contained in paragraph(s) 2 of the complaint and refers all questions of law and fact to judge and jury, except admits that Metro-North is a public benefit corporation created pursuant to the Public Authorities Law of the State of New York.

**THIRD:** Denies upon information and belief the truth of the allegations contained in paragraph(s) 4 of the complaint and refers all questions of law and fact to judge and jury, except admits that Metro-North operated and maintained a line of railroad known as the Harlem Division Line.

**FOURTH:** Denies upon information and belief the truth of the allegations contained in paragraph(s) 5 of the complaint and refers all questions of law and fact to

judge and jury, except admits that Metro-North operated and maintained a railroad station known as Brewster No. Station.

**FIFTH:** Denies the allegations contained in paragraph(s) 6, 8, 9, 10, 11 and 12 of the complaint.

**SIXTH:** Admits the allegations contained in paragraph(s) 7 of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

**SEVENTH:** As and for a first affirmative defense, or as a defense in mitigation of damages, the defendant claims that any injuries allegedly sustained by the plaintiff were caused, in whole or in part, by reason of the culpable conduct of the plaintiff.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

**EIGHTH:** As and for a second affirmative defense, the defendant claims that this cause of action is barred by the applicable statute of limitations.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

**NINTH:** As and for a third affirmative defense, the defendant claims that the plaintiff failed to comply with conditions precedent.

**WHEREFORE,** defendant demands judgment dismissing the complaint, together with costs and disbursements and such other and further relief as to this Court deems just and proper.

Dated: New York, New York  
September 5, 2007

RICHARD K. BERNARD  
GENERAL COUNSEL

By: S/  
José R. Rios  
Attorneys for Defendant  
347 Madison Avenue  
New York, New York 10017  
212-340-2537 - JRR/5785

TO: Ira M. Maurer, Esq.  
Cahill,Goetsch & Maurer, P.C.  
Attorneys for Plaintiff  
1 Croton Point Avenue  
Croton-on-Hudson, NY 10520  
914- 271-9474 – IM/0337

*STATE OF NEW YORK* :  
: ss:  
*COUNTY OF NEW YORK* :

LAURA MATTHEWS, being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside in the Bronx, New York.

On September 5, 2007, I served a true copy of the annexed ANSWER and RULE 7.1 STATEMENT, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: Ira M. Maurer, Esq.  
Cahill, Goetsch & Maurer, P.C.  
Attorneys for Plaintiff  
1 Croton Point Avenue  
Croton-on-Hudson, NY 10520  
914/ 271-9474 – IM/0337

S/  
LAURA MATTHEWS

Sworn to before me this  
5 day of September, 2007

S/  
NOTARY PUBLIC